

Preliminary Amendment March 22, 2005

### **REMARKS**

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Claims 1-8 and 11-22 now stand in the application. Claims 9-10 have been canceled and new claims 11-22 have been added.

Claim 1 has been amended to emphasize the unique curvature of the cover, so as to smoothly conform to a wearer's breast. The cover of claim 1 includes the following aspects:

1. flexible material;
2. hollow curved surface;
3. first thickness at center for concealing the nipple;
4. second thickness at periphery for blending with a breast surface;
5. second thickness less than first thickness;
6. gradual tapering from center to periphery for smoothly blending; and
7. curvature of outer surface is substantially continuous curvature from

center to periphery.

In the outstanding Office action, the Lee patent (U.S. Patent No. 4,195,639) was cited for having a thinner thickness at the periphery. However, Lee's device is a breast prosthesis for substituting for a breast that has been removed. The prosthesis is thus bigger at its periphery than a breast, and its periphery has a sharp, noncontinuous change in curvature so that there is a flat flange ("rear peripheral edge 14") "for attachment...to the chest wall of the patient." Col. 3, lines 48-50 and, e.g., Figures 1-4. Lee's device also does not have a hollow curvature, and is relatively rigid, because it replaces a whole breast.

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It would not have been obvious to use the thin flange of Lee on a breast cover of the type of claim 1, because the specific purpose of the thin flange 14 in Lee is to sit against the chest wall. In the claimed embodiment(s), the cover is substantially different from a simple nipple pad or cover which has substantially uniform thickness and/or shows the shape of the nipple.

The resultant cover of claim 1 conceals the nipple yet blends smoothly and naturally with the breast, enabling the user to wear sheer or thin clothing without showing the nipples and areola, and without showing the edges of the cover.

It is noted that the amendments to claim 1 are supported, e.g., at page 7, lines 5-9, and e.g., Fig. 2.

Dependent claim 4 emphasizes that the cover, in one embodiment, covers at least about one half but not all of the breast. See, Fig. 2.

Dependent claim 7 has been amended to emphasize the difference in thickness near the center and periphery, i.e., at the periphery (second thickness) it is substantially less than half the center (first thickness), to smoothly blend with the breast. This aspect of the invention is not shown or suggested by the art. Claim 7 is supported by e.g., Fig. 2.

Dependent claim 8 emphasizes how the device may be reusable. Support is at, e.g., p.8, lines 22-25.

New method claim 11 emphasized the curvature and thickness aspects of the invention which achieve smooth blending of the device with the breast, and yet cover and conceal the nipple shape.. It is believed patentably distinct from the art of record for reasons similar to claim 1 as discussed above.

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New claim 12 recites that the device is unitarily formed between the first and second surfaces. This aspect of the invention further distinguishes the Lee prosthesis, made of multiple materials so that it can be adjustable in size and shape, and replace a human breast.

New claim 14 recites a set of nipple cover similar to claim 1. It is believed patentably distinct from the art of record for the same reasons as claim 1. In addition, claim 14 together with dependent claim 16 recite such a set where there are devices of different sizes and/or colors, and therefore claim 16 is believed distinct from the art of record. Support is disclosed at, e.g., p.8, lines 1-8.

Claim 17 further emphasizes how color varies to match various skin tones, and is thus believed patentably distinct from the art of record. Claim 18 is also added for emphasis.

Claim 20 is added for emphasis of the function of the different thickness of the device.

Claim 21 emphasizes the use of different colors to match the wearer's skin.

Claim 22 emphasizes the smooth outer surface's purpose of concealing a nipple shape, when the wearer's clothing is against the device.

In view of the above amendments and remarks, reconsideration of the application and allowance of all of the claims are respectfully requested. If any issues remain which can be resolved by a supplemental response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

It is not believed that any additional fees are due; however, in the event of any

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additional fees are due, the Examiner is authorized to charge the enclosed credit card listed on the enclosed authorization form.

Respectfully submitted,

LAW OFFICES OF DAVID L. HOFFMAN

Date: March 25, 2005

  
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Encls.

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